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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: [Redacted] Office: Texas Service Center

Date: AUG 1 2001

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)

IN BEHALF OF PETITIONER: [Redacted]

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:


This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Texas Service Center. The matter is now before the Associate Commissioner for Examinations. The motion will be dismissed.

The petitioner filed Form I-360 seeking classification as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), in order to carry on the vocation of a Catholic priest with an unidentified church or religious organization.

The center director denied the petition finding that the petitioner failed to respond to a written request for additional information. On the cover letter of the decision, the director inadvertently advised the petitioner of appeal rights from the decision.

Pursuant to 8 C.F.R. 103.2(b)(13), if all requested initial evidence and requested additional evidence are not submitted by the required date, the petition shall be considered abandoned and, accordingly, shall be denied. Pursuant to 8 C.F.R. 103.2(b)(15), a denial due to abandonment may not be appealed, but the petitioner may file a motion to reopen under 8 C.F.R. 103.5.

The petition was abandoned and there are no appeal rights from that decision. Counsel for the petitioner filed an appeal from the decision which will be treated as a motion to reopen pursuant to 8 C.F.R. 103.5(a)(2).

On motion, counsel stated:

This is an application for a R visa for a Catholic priest. I believe this application was denied in error.

Counsel's statement refers to a petition for nonimmigrant classification as a temporary worker pursuant to section 101(a)(15)(R) of the Act. Such petition is filed on Form I-129. The petitioner in this matter filed Form I-360 for classification as a special immigrant religious worker, which is a permanent status.

Regardless of the classification the petitioner actually seeks, whether temporary or permanent, the petitioner has failed to submit the required initial evidence to support the instant petition for classification as a special immigrant minister under section 203(b)(4) of the Act. Therefore, the petition must be denied.

The petitioner is free to file a new petition without prejudice.

ORDER: The motion is dismissed.